

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6771

BILL NUMBER: HB 1376

NOTE PREPARED: Dec 31, 2012

BILL AMENDED:

SUBJECT: Various Privacy Issues.

FIRST AUTHOR: Rep. Koch

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Telephone Caller Identification Services-* The bill makes the following changes to the statute concerning telephone caller identification services:

- (1) The bill repeals the definition of "telecommunications service provider".
- (2) The bill adds the definition of "provider" in the statutes concerning: telephone caller identification services; and telephone solicitations.
- (3) The bill replaces the term "caller ID" with the term "caller identification", as used in the federal Caller ID Act of 2009.

Misleading/Inaccurate Caller Information- The bill provides that a person may not knowingly and with the intent to defraud, cause harm, or wrongfully obtain anything of value, cause any caller identification service to transmit misleading or inaccurate caller identification information to a subscriber in Indiana. The bill exempts certain activities from the prohibition.

Misdemeanors- The bill provides that a violation of the prohibition is: (1) a Class B misdemeanor; and (2) a deceptive act actionable by the Attorney General. The bill provides that a subsequent violation is a Class A misdemeanor. The bill provides a cause of action for: (1) damages; and (2) injunctive relief; for any person aggrieved by a violation.

Professional Licensing Agency- The bill prohibits the Professional Licensing Agency (PLA) or a board administered by the PLA from disclosing to the public, personal information of an individual who: (1) applies for or holds a license, certificate, registration, or permit issued by a board; or (2) is a member of a board

administered by the PLA; subject to certain exceptions specified by law.

Unmanned Aerial Vehicles/Tracking Devices- The bill prohibits the use of unmanned aerial vehicles or tracking devices to conduct searches without a warrant, with certain exceptions. The bill establishes additional requirements that must be met in order for a search warrant authorizing the use of a tracking device to be issued.

Class D Felony- The bill provides that, except for a law enforcement officer acting under a warrant and certain other persons under certain circumstances, a person who uses a tracking device without the consent of the person who is the object of the use commits a Class D felony.

Effective Date: Upon passage; July 1, 2013.

Explanation of State Expenditures: *Class D Felony-* A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Misleading/Inaccurate Caller Information- The Attorney General may bring more actions against violators to enjoin them from continuing in a fraudulent or misleading act under the bill. (Under the deceptive consumer sales statute, the Attorney General may bring an action to enjoin a deceptive act.) Marion County Circuit or Superior Court caseloads may increase as a result of this provision.

Explanation of State Revenues: *Penalty Provisions:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000, a Class A misdemeanor is \$5,000, and a Class B misdemeanor is \$1,000.

Misleading/Inaccurate Caller Information- The bill would allow persons aggrieved by a violation to file a civil action in a circuit or superior court within the county of the person's residence or business location.

Court Fees: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Penalty Provisions:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. A Class A misdemeanor is

punishable by up to one year in jail. A Class B misdemeanor is punishable by up to 180 days in jail.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees.

Court Fee Revenue: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: Department of Correction; Professional Licensing Agency; Attorney General.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Chris Baker, 317-232-9851.